

INTERNATIONAL HUMAN RIGHTS

A Comprehensive Introduction

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Economic, Social, and Cultural Rights

The first *Human Development Report* of the United Nations Development Program, published in 1990, cited the following statistics:

- Over 1 billion people, nearly 20 percent of the planet, live in absolute poverty with incomes less than US\$1 per day.
- One in three children around the world suffers from serious malnutrition and is underweight.
- Half the people of the world lack primary health care, such that 3 million children die each year from immunizable diseases and 500,000 women die each year from causes related to pregnancy and childbirth.
- About 1 billion people are illiterate, and well over 100 million children of primary school age are not in school. Female illiteracy is greater than male illiteracy; nearly two-thirds of those enrolled in primary school are males.

Although the world produces enough food to feed everyone, and transportation exists to get food to those who are hungry, millions are dying of malnutrition. The structure of the international food distribution system, which governments have the power to regulate, is clearly responsible. Similarly, homeless people sometimes camp outside vacant apartments and office buildings from London to Los Angeles despite the possibility that governments could rent unused housing units from property owners and allow the homeless to use them for shelter. In short, food and shelter are available for nearly everyone, but are not allocated on the basis of need. Sociologist Johan Galtung (1930–) refers to such cruel squandering of abundant resources as

involving structural violence. What he means is that some people are dying from lack of adequate food and shelter, albeit slowly, on account of political structures that ignore them.

The first systematic international recognition of economic and social rights appeared in 1919 within the Constitution of the International Labor Organization (ILO), which declared a desire to abolish the "injustice, hardship and privation" that workers have suffered and to guarantee "fair and humane conditions of labor." The text in part was a response by the West to the rise of Soviet Bolshevism, which threatened to advance throughout the rest of Europe. During the years between World Wars I and II, the ILO drafted treaties to promote the right to organize trade unions, a minimum working age, maximum hours of work, weekly rest periods, sickness protection, accident and old-age insurance, and freedom from discrimination in employment. During the Great Depression of the 1930s, the ILO also stressed the issue of unemployment insurance and the desirability of full employment.

In 1933, Albania abolished all private schools, thus eliminating instruction for its Greek minority. Accordingly, the Permanent Court of International Justice was asked for an advisory opinion on the matter. In 1935, the court ruled that the effect was to deprive Greeks of an essential way to maintain their identity, faith, and culture. Thus, the recognition of social and cultural rights was embedded in international law during the era of the League of Nations.

Another impetus for the development of economic and social rights is contained within the Four Freedoms identified by President Franklin Roosevelt (1882–1945) in his State of the Union address on January 6, 1941. Going beyond the constitutional principles of freedom from expression and freedom of religion, Roosevelt proclaimed that equally important norms were the freedom from want and freedom from fear. By freedom from want, he identified "economic understandings which will secure to every nation a healthy peacetime life for its inhabitants." He understood freedom from fear as disarmament and the end of dictatorships. All four freedoms were to be achieved universally.

When the Allied military campaign during World War II promised eventual victory, plans were afoot to organize the UN. Australia lobbied for a clause in the UN Charter pledging all countries to improve labor standards, provide for social security, and guarantee full employment by taking action through the General Assembly, the UN Economic and Social Council, and the ILO. The United States, however, opposed such a provision as intruding into the domestic affairs of states, so the pledge for international action was watered down to a mere principle to be implemented by individual states as they saw fit. The preamble of the UN Charter pledged governments to "promote social progress and better standards of life," but left the adoption of a bill of economic, social, and cultural rights to the future work of the UN.

In 1944, while efforts to organize the UN were underway, the American Law Institute set up a committee to draft an international bill of rights. In addition to listing the civil and political rights contained in the American Bill of Rights, the committee proposed the following economic and social rights: right to education, right to work, right to reasonable conditions of work, right to adequate food and housing, and the right to social security. The committee noted that economic and social rights had already been recognized in the constitutions of many countries – right to

education (40 countries); right to work (9 countries); right to adequate housing (11 countries); and right to social security (27 countries).

A proposed bill of economic, social, and cultural rights was supported for inclusion into the Universal Declaration of Human Rights in 1948 by Eleanor Roosevelt (1884-1962) on behalf the United States. Third World countries endorsed the proposal, but there was opposition from governments in Europe, which were undergoing postwar reconstruction, so a more modest statement rather than a binding treaty was likely to emerge, if at all.

The UN Economic and Social Council (ECOSOC), created by the UN Charter, established the Commission on Human Rights to assume responsibility for translating the Declaration of Human Rights into the form of a single treaty. During the Cold War, however, the two sides in the debate between the primacy of civil and political rights versus economic and social rights were ideologically determined, as noted in the previous chapter. Yet Western countries supported anti-communist dictatorships that had no intention of supporting civil and political rights for their own people. The Soviet bloc, meanwhile, refused to support the Western bloc's text of the proposed treaty on economic and social rights, arguing that the provisions were too weak.

By 1955, consensus had been reached about the main outlines of an agreement, but the Cold War and other considerations held up final approval. The **European Social Charter** of 1961 proved that a consensus on the subject was possible, at least among Western European states. Some of the formulations in the proposed treaty were modified from 1963 to 1966. The final text of the **International Covenant on Economic, Social, and Cultural Rights**, as approved in 1966, finally entered into force in 1976 (Table 6.1).

TABLE 6.1 INTERNATIONALLY RECOGNIZED ECONOMIC, SOCIAL, AND CULTURAL RIGHTS
Article *Provisions of the International Covenant on Economic, Social, and Cultural Rights*

1(1)	Right to self-determination of peoples
1(2), 24	Freedom to dispose of natural wealth and resources
1(2)	Prohibition against deprivation of means of subsistence
1(3)	Obligation of trusteeship and colonial powers to promote self-government
2(1)	Obligation to use international assistance
2(1)	Obligation to pass laws to attain economic, social, and cultural rights
2(2)	Prohibition against discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status
2(3)	Obligation to adopt legislative or other measures to attain economic, social, and cultural rights
2(4)	Obligation of developing countries to guarantee economic rights to the extent possible
3	Equal economic, social, and cultural rights for men and women
4	Rights may be democratically limited only if they promote the general welfare
5(1)	No reduction in attainment of basic rights to meet Covenant obligations
5(2)	No cancellation of rights previously granted by a government

Continued

TABLE 6.1 (CONTINUED)

Article *Provisions of the International Covenant on Economic, Social, and Cultural Rights*

6(1)	Right to work
6(1)	Right to choose occupation freely
6(2)	Obligation of governments to provide technical education
7a(i)	Right to fair wages
7a(i)	Equal pay for equal work regardless of sex
7a(ii)	Right to a living wage
7b	Right to safe and healthy working conditions
7c	Equal opportunity for promotion (except for seniority and competence levels)
7d	Right to rest, leisure, limited working hours, paid periodic holidays
8(1a,2)	Right to form and join trade unions for all but armed forces, police, or government bureaucrats (subject to law and public order needs)
8(1b)	Right of trade unions to join together or to join international trade unions
8(1c)	Right of unions to function freely (subject to law and public order needs)
8(1d)	Right to strike (subject to law)
9	Right to social security, including social insurance
10(1)	Obligation to protect and assist families
10(1)	Right to choose marriage partners freely
10(2)	Right of mothers of newly born children to leave from work with pay or social security benefits and other special protection
10(3)	Obligation to protect children from economic and social exploitation
10(3)	Prohibition of work of children harmful to morals or health
10(3)	Obligation to establish a minimum age for children to work
11(1)	Right to adequate and improving food, clothing, housing conditions freely chosen
11(2a)	Obligation of governments to improve and reform systems of production, conservation, distribution of food, and knowledge about nutritional principles
11(2b)	Obligation to ensure equitable distribution of world food for the needy
12(1)	Right to physical and mental health
12(2b)	Obligation to reduce stillbirths, infant mortality
12(2c)	Obligation to improve environmental and industrial hygiene
12(2c)	Obligation to prevent, treat, and control diseases, including those work-related
12(2d)	Right to medical attention for sickness
13(1)	Right to education
13(1)	Obligation of education to promote full development, sense of dignity, respect for human rights and freedom; empower democratic participation; to promote understanding, tolerance, friendship among all nations and racial, ethnic, or religious groups; promote UN activities for peace
13(2a), 14	Obligation to provide free compulsory primary education either immediately or to design an implementation plan with a timetable
13(2b)	Obligation to provide secondary and technical education for all
13(2c)	Obligation to provide higher education for all who have the aptitude
13(2b,c)	Obligation to gradually provide free secondary, technical, higher education

Continued

TABLE 6.1 (CONTINUED)

Article	Provisions of the <i>International Covenant on Economic, Social, and Cultural Rights</i>
13(2d)	Obligation to provide education for those not completing primary grades
13(2e)	Obligation to increase schools, provide fellowships, upgrade work conditions of teachers
13(3)	Right of parents to send children to nonpublic schools, if they meet minimum standards
13(3)	Right of parents to provide moral and religious education to children
13(4)	Right to establish schools that meet minimum standards
15(1a)	Right to take part in cultural life
15(1b)	Right to enjoy benefits of science and its applications
15(2)	Obligation to develop, conserve, diffuse science and culture
15(3)	Right of scientists to free inquiry
15(4)	International scientific and cultural cooperation and contacts are encouraged
23	Pledge to furnish technical assistance to meet obligations and rights

BASIC ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

The Covenant on Economic, Social, and Cultural Rights deals mostly with substantive rights. About half of the provisions in the covenant are identified as "rights," the others as "obligations." Later agreements have specified procedures to be followed in implementing the treaty, such as reporting requirements. After being fully ratified, the **Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights** of 2008 established new complaint and inquiry procedures.

COURT CASE 6.1 SOCIAL DEMOCRATIC WORKERS PARTY V. LATVIA (2001)

The European Union requires all members to provide an efficient social security insurance system, but the specific program can vary from country to country. Latvia adopted a system in which employers contribute to a fund by paying premiums for the benefit of employees. However, some employers ignored the regulations. Alleging a breach of Articles 9 and 11 of the International Covenant on Economic, Social and Cultural Rights, because the government did not enforce the employer mandate, members of the Social Democratic Workers Party sued the government (the parliamentary majority) to ensure that the right to social security would apply to all employers without exception. The Latvian constitutional court agreed, citing principles adopted by the Committee on Economic, Social, and Cultural Rights. The case demonstrates that national courts within the European Union can apply international standards to regulate private employers.

The Covenant on Economic, Social, and Cultural Rights has encouraged the uniform extension of rights to all countries. Thus, in one case, the Latvian government was permitting some employers to escape from social security protections, but workers sued to enforce the covenant and won. In another case, the right to health governed a decision to provide treatment to those with HIV because provisions of the covenant had been written into the new constitution of the Republic of South Africa.

COURT CASE 6.2 MINISTER OF HEALTH V. TREATMENT ACTION CAMPAIGN (2002)

To prevent HIV infections in children, the South African government offered an anti-retroviral drug to 30,000–40,000 children of HIV-infected mothers for free for five years. Suddenly, the government announced it would offer the drug only in certain pilot sites, which would be set up in the following year, thereby denying most mothers access to treatment. The Treatment Action Campaign then sued the South African government for denial of the right to health. The High Court ruled that the drug must be offered to infected mothers giving birth in state institutions and ordered the government to present the court an outline of how it planned to extend provision of the medication to its birthing facilities in the entire country. The government appealed the decision to the Constitutional Court, which rejected the appeal and ordered the government to extend availability of the drug to hospitals and clinics, to provide counselors, and to take reasonable measures to extend the testing and counseling facilities throughout the public health sector. The decision established a framework for enforcement of the obligation to ensure economic, social, and cultural rights.

To clarify the meaning of provisions of the Covenant, several agreements have been adopted by the General Assembly and Specialized Agencies of the UN. According to the UN Office of the High Commissioner for Human Rights, three of the treaties are among the “core international human rights instruments,” including the International Covenant on Economic, Social, and Cultural Rights (Table 6.2).

TABLE 6.2 CORE TREATIES ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

<i>Adopted</i>	<i>Treaties</i>	<i>In force</i>
1966	International Covenant on Economic, Social, and Cultural Rights	1976
1966	• First Optional Protocol	1976
1989	• Second Optional Protocol	1991
1979	Convention on the Elimination of All Forms of Discrimination Against Women	1981
1995	• Amendment	1981
1999	• Optional Protocol	2000
1989	Convention on the Rights of the Child	1990
1995	• Amendment	
2000	• Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Combat	2002
2000	• Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	2002
2011	• Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure	2002
1990	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	2003

SPECIALIZED AGENCIES OF THE UNITED NATIONS DEALING WITH HUMAN RIGHTS

While progress on adoption of the Covenant stymied on account of Cold War antagonisms, the UN established a structure to deal with economic, social, and cultural rights. The principal innovation was the framework for Specialized Agencies and Functional Commissions under ECOSOC. Most of the new bodies were created by the General Assembly, but some revived organizations that existed prior to the UN.

The ILO, which had been formed within the Treaty of Versailles of 1919, operated outside the League of Nations. The ILO agreed to become a Specialized Agency of the UN in 1946 and was placed under ECOSOC. The ILO has continued to sponsor treaties on issues of employment, classifying the most important as "fundamental" or "priority" treaties (Table 6.3). Basic ILO-sponsored treaties deal with such problems as child labor, collective bargaining, discrimination, equal pay, forced labor (peonage, serfdom, and slavery), the policy of full employment, and trade union rights. Those on discrimination and rights of trade unions deal with civil and political rights. The rest are economic and social rights.

In 1942, a Conference of Allied Ministers of Education met. They proposed a meeting after the war to continue the work of the International Committee of Intellectual Co-operation, which was formed in 1922, and the International Bureau of Education, that began work in 1925. In 1945, seeking a body to create a culture of peace, the UN convened a conference in London to form an educational and cultural organization. On conclusion of the meeting, the representatives adopted

TABLE 6.3 BASIC TREATIES OF THE INTERNATIONAL LABOR ORGANIZATION

Adopted	Treaty	Type	In force
1930	Convention Concerning Forced or Compulsory Labor	Fundamental	1932
1948	Freedom of Association and Protection of the Right to Organize Convention	Fundamental	1950
1949	Convention Concerning Freedom of Association and Protection of the Right to Organize	Fundamental	1951
1951	Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value	Fundamental	1953
1957	Convention Concerning the Abolition of Forced Labor	Fundamental	1959
1958	Convention Concerning Discrimination in Respect of Employment and Occupation	Fundamental	1960
1973	Convention Concerning Minimum Age for Admission to Employment	Fundamental	1976
1999	Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor	Fundamental	2000
1947	Convention Concerning Labor Inspection in Industry and Commerce	Priority	1950
1964	Convention Concerning Employment Policy	Priority	1966
1969	Convention Concerning Labor Inspection in Agriculture	Priority	1972
1976	Convention Concerning Tripartite Consultations to Promote the Implementation of International Labor Standards	Priority	1978

the Constitution of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), which came into force the following year.

Prior to World War II, the Office International d'Hygiène Publique (OIHP) and the League of Nations Health Organization coexisted primarily because the United States was a member of OIHP but not the League. When both organizations became moribund during World War II, the United Nations Relief and Rehabilitation Administration (UNRRA) was set up in 1943 to carry on the health functions of both organizations until ECOSOC, at its first meeting in 1946, authorized a conference to establish the Constitution of the World Health Organization (WHO) later that year. UNRRA was dissolved in 1947, when a WHO Interim Commission was formed to carry out work while ratifications of the WHO treaty were being registered. WHO officially began in 1948, proclaiming the right to health.

In addition to ILO, UNESCO, and WHO, ECOSOC has provided the umbrella for 15 Specialized Agencies, 10 Functional Commissions, and 5 Regional Commissions, though not all deal with human rights issues identified in the Covenant. The most salient are the Food and Agricultural Organization of the United Nations and the International Fund for Agricultural Development. The Regional Commissions for

all areas of the world except Antarctica, the Arctic, and North America (Canada and the United States), assist in bringing about regional cooperation in major areas of economic, social, and cultural issues of concern to each region. The Specialized Agencies, Functional Commissions, and Regional Commissions have drafted many treaties, thereby adding to the corpus of international law.

INDIGENOUS PEOPLES' RIGHTS

International human rights developed from 1648, when the Peace of Westphalia recognized states, not peoples, as the basic units of world politics. According to the Treaty of Versailles that ended World War I, empires were to be broken up into states in which each nationality group would enjoy their own homeland. The Austro-Hungarian Empire and the Ottoman Empire in Europe were then carved up into the separate states of Austria, Bulgaria, Hungary, Czechoslovakia, Poland, Romania, and Yugoslavia in order to correspond to the principle that no people should be governed by another. The "one nation, one state" concept, a fiction embodied in the Fourteen Points of Woodrow Wilson (1856–1924), was one of the principles adopted at Versailles. Every government had minority populations, and many had indigenous peoples under their jurisdiction.

Wilson did not apply the same principle to his own country, where indigenous peoples live on 55 million acres of reservations (not their ancestral lands) in 30 states, governed by tribal governments. Although a US District Court, in 1879, ruled in United States *Ex Rel. Standing Bear v. George Crook* that native peoples living in the United States had the right to sue in American courts, many native peoples did not survive the onslaught of white settlers. Relations between the United States and 15 of the indigenous peoples are based on treaties which presuppose that both parties are sovereign, and indeed several tribal governments are now suing to regain fishing and other rights.

HISTORIC EVENT 6.1 CONGRESS PASSES THE WESTERN SHOSHONE CLAIMS DISTRIBUTION ACT (2004)

According to the terms of the Treaty of Ruby Valley of 1863, white settlers were allowed to cross Western Shoshone lands from Idaho's Snake River to the Great Salt Lake into Death Valley, California. Washington subsequently interpreted the agreement to mean that the Shoshones had given up their land. In 1979, Congress offered US\$26 million to settle the land claims, but the tribes insisted on return of their lands. In 1985, the US Supreme Court ruled that the US\$26 million settlement extinguished the land claims, but the tribes again refused the money. After various unsuccessful efforts to enforce the treaty in court, and Congressional legislation in 1992 and 1995, Congress passed the Western Shoshone Claims Distribution Act of 2004, awarding the Shoshones US\$145 million in compensation for their land. Starting in 2011, payments have been made to members of the Western Shoshone nation.

During the League of Nations era, the rights of indigenous peoples were not included on the agenda of human rights concerns. In 1922, the Six Nations Iroquois Confederacy petitioned the League of Nations to prevent Canada from taking over Iroquois lands, but the petition was rebuffed. In 1945, a leader of the Iroquois nation sought to address the San Francisco conference that established the UN, but he was refused recognition.

During the early years of the UN, governments were eager to promote economic development, including encroachments on remote lands that had long been occupied by indigenous peoples who had preserved their way of life without joining the world capitalist system. The very existence of distinct peoples was threatened because the natural environments in which at least 350 million individuals, representing some 5,000 ethnolinguistic groups in 70 countries, were increasingly under attack. Complacently, the fate of indigenous peoples was thought to be protected by such treaties as the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. The presumption was that native peoples had to assimilate (adopt the culture of the dominant group) in order to secure their rights. ILO's *Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries* of 1957 was also based on an assimilationist premise that clearly was not designed to handle the onslaught of corporations seeking to cut down rainforests and governments desiring to resettle their people from overcrowded cities to "virgin" lands.

In 1975, *George Manual* (1921–1989) invited 30 indigenous leaders from Canada, the United States, Australia, and New Zealand to a conference in Vancouver, Canada, where the World Council of Indigenous Peoples was formed. In 1981, the International Non-Governmental Organizations Conference on Indigenous Peoples and the Land, held at Geneva, advanced the concept of the *Fourth World* to refer to the world's indigenous peoples as contrasted with the *First World* (industrial democracies), *Second World* (non-market socialist economies), and *Third World* (developing countries). Both the Council and the Conference then pressured the UN to recognize them as distinct peoples.

In 1981 UNESCO's *Declaration of San José* responded by declaring *ethnocide* to be a form of cultural genocide that is an "extreme form of massive violation of human rights." "Ethnocide," the declaration stated, exists when a people's "right to enjoy, develop and transmit its own culture and its own language, whether collectively or individually," is denied. The term had been coined by Raphael Lemkin (1900–1959), who had also advanced the term "genocide." Nevertheless, *ethnocide* had been excluded from human rights protections under the Geneva Convention and other human rights agreements.

In 1982, the UN Commission on Human Rights established the Working Group on Indigenous Populations, which asked five independent experts to make a comprehensive study of indigenous peoples and to make recommendations. The working group's report concluded that the distinctive characteristic of indigenous peoples is land-rootedness, so protection of their rights must involve an end to further encroachment on ancestral territories. In 1994, the Working Group adopted a draft Declaration on the Rights of Indigenous Peoples, but the 45 articles were not accepted by governments represented on the Commission. The Working Group has

continued to hold conferences, which have been attended in recent years by some 166 organizations of indigenous peoples.

In 1989, meanwhile, the ILO adopted the *Convention Concerning Indigenous and Tribal Peoples in Independent Countries* to replace the assimilationist treaty of 1971. Rejecting assimilationism, the new treaty prohibits "co-use, co-management, co-conservation, and non-removal or relocation without 'free and informed consent'." However, indigenous peoples are not empowered in the treaty with a veto over the use of their ancestral lands.

Many of the most vocal groups represent the native peoples of the Americas. In 1992, the Second Summit Meeting of Ibero-American Heads of State adopted the *Agreement Establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean* to provide financial resources for the many impoverished peoples whose environments have been severely damaged.

In 2001, the Inter-American Court of Human Rights ruled in *Mayagna (Sumo) Community of Awas Tingni v. Nicaragua* that native peoples have the right to maintain communal economic systems and to have sovereign control of their homelands. The UN ECOSOC followed up that year, setting up the Permanent Forum on Indigenous Issues. The forum has issued several declarations on such subjects as communication rights, elementary education, equality issues, and women's rights, but none on whether passports for aboriginal nations should receive international recognition. In 2007, the UN General Assembly clarified many issues by issuing the *Declaration on the Rights of Indigenous Peoples*.

COURT CASE 6.3 MAYAGNA (SUMO) COMMUNITY OF AWAS TINGNI V. NICARAGUA (2001)

In 1993 and 1995, a Nicaraguan government province granted logging concessions to private corporations from the Dominican Republic and South Korea. The concessions, which were on the lands of the indigenous Mayagna (Sumo) Community of Awas Tingni along the Atlantic coast, were granted without any attempt to obtain consent from the aboriginal population. With legal assistance from the World Wildlife Federation, the community complained to the Inter-American Commission on Human Rights (IACHR) in 1995 and to the Nicaraguan Supreme Court in 1997. Both bodies ruled in favor of the Awas Tingni people. After further negotiations with the Nicaraguan government, in 1998 the IACHR brought the case against the Nicaraguan government before the Inter-American Court of Human Rights. In 2001, the court ruled that failure to obtain prior approval of the native population was a violation of the Inter-American Convention on Human Rights, which requires governments to demarcate boundaries of the territories where indigenous peoples can exercise sovereign control and to accord them legal protection. The court awarded the community US\$30,000 for legal expenses and US\$60,000 for the community to spend for the benefit of its people.

In short, indigenous peoples are under threat around the world. Their rights have been gradually identified, but often too late for them to preserve their ways of life, yet they have not been paid adequate reparations for their losses. Although they may be covered under civil rights protections as "minorities," their priorities go beyond to include land rights, self-determination, and social equality. Major international institutions, dominated as they are by states that often suppress minority peoples, have failed to recognize aboriginal rights. As individuals, they are covered by the various human rights treaties. As groups, they await fuller recognition.

AGREEMENTS AND DECLARATIONS ON SOCIAL AND CULTURAL RIGHTS

During the era of the UN, many important treaties have been adopted (Table 6.4). UNESCO, for example, sponsored the *Convention Against Discrimination in Education* followed by a protocol setting up a commission to handle complaints.

The General Assembly has fostered several agreements with special protection for children, the disabled, older persons, mentally ill persons, and women. The *Convention on Consent to Marriage, Minimum Age for Marriage and Registration for Marriage*, adopted in 1962, was designed to liberate women by requiring states to pass laws on the subject. The agreement does not specify a minimum age but, in 1965, a General Assembly resolution, *Recommendation on Consent to Marriage, Maximum Age for Marriage and Registration of Marriage*, recommended the age of 15 as the minimum. According to English law, the minimum marriage age is 18, or 16 with parental consent. Eighteen is the most common minimum age in the world. Two countries (Sudan and Tanzania) allow 12-year-olds to marry, and three countries (Brunei, Saudi Arabia, and Yemen) have no minimum legal marriage age. Common law marriages, wherein partners living together are regarded as legally married without obtaining a marriage certificate from a government agency, are recognized in Australia, Canada, New Zealand, nine states of the United States and the District of Columbia, and the English-speaking Caribbean.

The *Convention on the Rights of the Child* of 1986 codified many rights granted to those 16 and under, and the *African Charter on the Rights and Welfare of the Child* of 1990 provides additional protections, particularly those relating to social rights. However, the treaties do not agree on when a person is no longer a "child."

During World War II, Nazi officials occupying Austria, Hungary, and other countries decided to loot works of art and haul them away to Germany. Claims for return of personal and state cultural properties were made after the war, but there was no regularized procedure to handle the situation. The *Convention for the Protection of Cultural Property in the Event of Armed Conflict* of 1954, which clarifies Geneva Convention provisions on the subject, is discussed in Chapter 7.

TABLE 6.4 TREATIES ON SOCIAL AND CULTURAL RIGHTS

<i>Adopted</i>	<i>Agreements and treaties</i>	<i>In force</i>
1945	Constitution of the United Nations Education, Scientific, and Cultural Organization	1946
1946	Constitution of the World Health Organization	1948
1957	Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries	1959
1960	Convention Against Discrimination in Education	1962
1962	• Protocol Instituting a Conciliation and Good Offices Commission to Be Responsible for Seeking a Settlement of Any Disputes Which May Arise Between States Parties to the Convention Against Discrimination in Education	1968
1961	European Social Charter	1965
1962	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage	1964
1970	Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	1972
1972	Convention Concerning the Protection of the World Cultural and Natural Heritage	1975
1976	Cultural Charter for Africa	1990
1981	Convention Concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities	1983
1981	African Charter on Human and Peoples' Rights	1986
2003	• Protocol to the African Charter on Human and Peoples' Rights and the Rights of Women in Africa	2005
1986	Convention on the Rights of the Child	1990
1989	Convention Concerning Indigenous and Tribal Peoples in Independent Countries	1991
1990	African Charter on the Rights and Welfare of the Child	1999
1992	Agreement Establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean	1993
2001	Convention on the Protection of the Underwater Cultural Heritage	2006
2003	Convention for the Safeguarding of Intangible Cultural Heritage	2006
2005	Convention on the Protection and Promotion of the Diversity of Cultural Expressions	2007
2006	Convention on the Rights of Persons with Disabilities	2008
2006	• Optional Protocol to the Convention on the Rights of Persons with Disabilities	2008
2008	Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights	2013

But Nazis have not been the only looters; colonial powers did so for centuries. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 stimulated lawsuits in 2005, when Greece and Italy sued the Getty Museum in Los

Angeles for illegally removing art objects from their countries, and Perú asked Yale University to return some five thousand artifacts taken from Machu Picchu. Getty was exonerated in a Greek court but returned some of the contested material to Italy, and Yale sent back thousands of artifacts to Perú. In 2006, voluntary agreements by the Boston Museum and the Metropolitan Museum of Art in New York returned 13 and 21 artifacts to Italian ownership, respectively, which in turn considered them to be out on loan. In 2012, Bolivia returned a 700-year-old mummy to Perú that had been stolen by someone who intended to sell the cultural artifact to France; the two countries then signed a treaty to stop smuggling of cultural artifacts. In 2013, the Metropolitan Museum of New York returned two tenth century statues to Cambodia.

Cultural preservation has also been forward looking. The Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972 established the concept of World Heritage Sites. The Cultural Charter for Africa of 1976 articulated similar provisions to the African context, where cultural suppression is a serious problem. More recently, the Convention on the Protection of the Underwater Cultural Heritage of 2001, the Convention for the Safeguarding of Intangible Cultural Heritage of 2003, and the Convention on the Protection and Promotion of the Diversity of Cultural Expression of 2005 have extended the scope of cultural protection. In 2003, the Declaration Concerning the Intentional Destruction of Cultural Heritage came after the revelation that cultural sites in Afghanistan had been destroyed by the Taliban rulers during the last decade of the twentieth century, but the agreement was a declaration, not a treaty.

Not all international agreements on human rights have been adopted in the form of legally binding treaties. Similar to the Universal Declaration of Human Rights, many agreements have taken the form of statements of agreed-upon principles, but the path between declarations and conventions has been stony. Nevertheless, the spirit of human rights has been uplifted by several declarations regarding social and cultural rights (Table 6.5).

Some declarations have been very broad. The Declaration of Principles of International Cultural Cooperation of 1966 provided a framework for dealing with cultural preservation, as noted above. The Declaration on Social Progress and Development of 1969 specifies some of the major concerns of both human rights covenants. With respect to social rights, the declaration prioritizes protection of the family (including the welfare of children), education, equal opportunities, health, housing, poverty and illiteracy reduction, the right to freely chosen employment, scientific progress shared with the people, and welfare benefits for the poor. One element of "scientific progress" is the development of more productive agriculture that could relieve world hunger.

Several agreements focus on the frontiers of science. The Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and the Benefit of Mankind of 1975 was concerned with the way in which scientific innovation might be put to the service of the war industry. The Universal Declaration on the Human Genome and Human Rights of 1998 and the Universal Declaration on Bioethics and Human Rights of 2005 were also motivated by a desire to establish limits to Frankensteinianism. The Declaration on the Responsibilities of the

TABLE 6.5 DECLARATIONS ON SOCIAL AND CULTURAL RIGHTS

<i>Adopted</i>	<i>Agreements</i>
1965	Recommendation on Consent to Marriage, Maximum Age for Marriage and Registration of Marriage
1966	Declaration of Principles of International Cultural Cooperation
1969	Declaration on Social Progress and Development
1971	Declaration on the Rights of Mentally Retarded Persons
1975	Declaration on the Rights of Disabled Persons
1975	Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and the Benefit of Mankind
1978	Declaration on Race and Racial Prejudice
1981	Declaration of San José
1989	Recommendations on the Safeguarding of Traditional Culture and Folklore
1991	Principles for Older Persons
1991	Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health
1992	Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
1993	Declaration on the Elimination of Violence Against Women
1993	Standard Rules on the Equalization of Opportunities for Persons with Disabilities
1995	Declaration of Principles on Tolerance
1996	Declaration of the Principles of Intercultural Cooperation
1997	Declaration on the Responsibilities of the Present Generation Towards Future Generations
1998	Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms
1998	Universal Declaration on the Human Genome and Human Rights
2001	Declaration of Commitment on HIV/AIDS
2001	Universal Declaration on Cultural Diversity
2003	Declaration Concerning the Intentional Destruction of Cultural Heritage
2003	International Declaration on Human Genetic Data
2005	Universal Declaration on Bioethics and Human Rights
2007	Declaration on the Rights of Indigenous Peoples

Present Generation Towards Future Generations, of 1997, stated the same issue but far more broadly.

Ethnic and racial discrimination were treated in Chapter 5 as violations of civil and political rights by governments. However, individuals can believe that they are entitled to their prejudices, so the cultural and social agenda is to create a climate free from negativity toward "others." The *Declaration on Race and Racial Prejudice* of 1978, the *Declaration of San José* of 1981, *Recommendations on the Safeguarding of Traditional Culture and Folklore* of 1989, the *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and*

Linguistic Minorities of 1992, and the Declaration of Principles on Tolerance of 1995 were adopted to encourage countries to stop demonization of minority groups.

In 1998, UNESCO decided to stress responsibilities over rights. The result was the Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

In 2001, UNESCO sponsored the Universal Declaration on Cultural Diversity, which recommends that governments should not only respect cultural rights (notably cultural education, media pluralism, multilingualism, and the protection of artists and authors as unique developers of culture) but also foster policies of integration that promote the interaction of diverse cultural groups. The declaration was then encoded into the Convention on the Protection of the Diversity of Cultural Expression in 2005.

However, female genital circumcision exists in about two dozen countries and is disapproved of in even more countries. Believing that unusual cultural practices should be restricted to the private sphere, France has banned wearing of the *burka* in public despite a commitment to cultural rights.

DISCUSSION TOPIC 6.1 SHOULD MUSLIM WOMEN BE BANNED FROM WEARING HEAD OR BODY COVERINGS IN NON-MUSLIM COUNTRIES?

Although veils are not required by the Islamic faith, the custom of headscarves, veils, and *burkas* (full body coverings) is being observed increasingly by Muslims in Western European countries, where there is some concern as well that ski masks and full-face motorcycle helmets can be used as disguises for persons engaging in criminal activity. Despite the presence of significant Muslim minorities, which countries currently ban such coverings? Which non-Muslim countries accept some coverings? Do partial or total bans on distinctive coverings in the name of promoting social harmony and national security serve to infringe cultural rights? What are the limits to prohibitions and requirements regarding the wearing of certain clothing in schools?

Other declarations focus on particular groups – aboriginal peoples, the disabled, the elderly, the mentally ill and mentally retarded, persons with HIV/AIDS, and women. Appropriate treaties with binding provisions await more work by various UN bodies with member governments.

THE GAP BETWEEN RICH AND POOR COUNTRIES

While the International Covenant on Economic, Social, and Cultural Rights was being drafted, much American aid went to anti-communist regimes, Soviet aid to pro-Soviet regimes, and World Bank aid to First World contractors to build infrastructure in the Third World. In the latter case, giant corporations profited by receiving lucrative construction and consulting contracts. Some observers characterized the UN as staffed by bureaucrats who were so out of touch with the latest technological innovations that they were not dispensing useful technical assistance. While the ILO continued to design treaties to extend economic rights to workers and trade unions, the world economic order gave no rights to poor countries.

As more African countries joined the UN in the 1960s, the balance of power in the General Assembly shifted away from problems associated with the Cold War to concern for poverty within the Third World. Although many First World leaders naively believed that Third World governments were solely at fault for failing to improve the quality of life of their peoples, the realization increasingly dawned in developing countries that their poverty was due to policies pursued in the economically dominant First World. Accordingly, in 1964 the General Assembly convened the first UN Conference on Trade and Development (UNCTAD) to devise a coherent and effective strategy for Third World economic development.

What UNCTAD first proposed was that developing countries should adopt import substitution strategies; that is, develop basic industries behind tariff walls so that poor countries could become more economically self-reliant. However, the private sector in developing countries lacked the capital required to develop heavy industry, so two patterns developed. In some countries, tax revenues were used to establish government corporations, following a socialist model. In other countries, First World-based transnational corporations (TNCs) bought businesses in developing countries to gain increasingly monopolistic control of national economies, and later used their economic leverage to gain exemptions from regulations otherwise imposed on local businesses. While socialist Third World government enterprises foundered on account of lack of internal competition, First World corporations used the import substitution strategy to exploit poorer countries, failing to assist in developing their economies to the point of self-sufficiency. Even in the field of agriculture, TNCs within poor countries were sending food to rich countries while local people were starving.

In 1964, UNCTAD urged developed countries to allocate at least 0.7 percent of their gross national product for Third World aid. Half that amount was forthcoming, but with so many strings attached that developing country governments resented the aid conditions as constituting political interference on behalf of First World interests. In addition, the terms of trade declined for the Third World. They were paying increasingly more to import Western goods, while export revenues for developing countries were declining. As First World corporations found new sources of primary products within developing countries, Third World earnings

from natural resources fell because of increased world supply; they were being decapitalized. By the end of the 1960s, there was a growing belief in UNCTAD that import substitution had failed to promote developing country prosperity. In response, the UN General Assembly adopted the *Declaration on Social Progress and Development* in 1969.

When the 1970s began, the North-South split between the First and Third worlds dominated discussion in the UN. Poorer countries of the south insisted that they had the right to receive considerably more aid for development, since they argued that countries in the north had become rich by exploiting them, first as colonies and later as economic neocolonies. The argument, in short, was articulated in terms of dollars and cents more than ideologies. At the same time, Marxist theories from the Second World were increasingly being accepted as valid explanations for the dismal fate of the Third World, while some former colonial powers rejected the neocolonial thesis. Nevertheless, at least four significant developments shifted the initiative to the south. First, member countries of the Organization of Petroleum Exporting Countries (OPEC) decided in 1970 that they would no longer allow Western oil corporations to determine the selling price for petroleum. They instead began to nationalize the oil industries and to set export prices, thereby showing that non-Western countries had more clout in the world economy than previously thought.

Next, French President Charles de Gaulle (1890-1970), who opposed the American involvement in the Vietnamese Civil War, decided to undermine American financing of that conflict. He was aware that Americans were buying more wine and other goods from France than the French were buying from the United States, resulting in a trade surplus in favor of France. Since the meeting at Bretton Woods, that set up the World Bank in 1944, designated the US dollar as the primary unit of international currency - which in turn was backed by gold deposits at Fort Knox and other government depositories in the United States - in 1971 France refused to accept dollars for American export purchases and instead demanded payment in gold. In response, President Richard Nixon (1913-1994) took the dollar off the gold standard, thereby forcing the price of the dollar to fluctuate in the world economy. The international economic order, which had been premised on the dollar backed by a fixed price of gold after World War II, was shattered. The world, therefore, lacked economic stability in a sea of shifting rates of exchange between national currencies.

In September 1973, the Summit Conference of Non-Aligned Nations (described below in Chapter 13), held in Algiers, called for a new international economic order (NIEO) that would replace the economic order which ended when the dollar was no longer backed by gold. The Third World wanted to end the exploitation and impoverishment inherent in the old order, which had consigned poor countries to ship minerals and other primary products at low prices to the First World and then to buy back goods made with the same products in Western countries at higher prices.

The coup de grace came in October 1973, after the Yom Kippur War broke out. While Israel responded to a surprise attack from Egypt and Syria, the Organization of Arab Petroleum Exporting Countries (OAPEC, not OPEC) limited shipments of

TABLE 6.6 DECLARATIONS ON ECONOMIC RIGHTS

<i>Adopted</i>	<i>Agreements and treaties</i>
1974	Universal Declaration on the Eradication of Hunger and Malnutrition
1974	Declaration and Program of Action on the Establishment of a New International Economic Order
1974	Charter of Economic Rights and Duties of States
1976	OECD Guidelines for Multinational Enterprises
1977	ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy
1986	Declaration on the Right to Development
2000	United Nations Millennium Declaration

oil to Israel's principal allies, notably the United States, Japan, and the Netherlands (the port of entry for Western Europe). To obtain sufficient petroleum, oil companies in the three countries had to buy oil on the spot market, and the selling price quadrupled through 1974. Arab countries suddenly were awash with US dollars, and a First World recession resulted as the increased cost of oil reverberated throughout their economies.

Accordingly, world economic instability prompted a call for action from the UN General Assembly, where the Third World could outvote the First World (Table 6.6). A special session of the General Assembly met in 1974 and adopted, without a formal vote, a manifesto entitled **Declaration and Program of Action on the New International Order**. Next, the General Assembly convened the World Food Conference, which issued the **Universal Declaration on the Eradication of Hunger and Malnutrition**. Later that year, the General Assembly's regular session approved the **Charter of Economic Rights and Duties of States**. Among the specifics in the NIEO proposals were the following:

- Recognition of the concept of the right to development
- National control of infrastructure on the basis of the principle of build-operate-transfer
- Relocation of First World industries to the Third World
- Joint ventures, so that First World corporations could only operate in the Third World in joint operations with local corporations
- Joint research so that patents could be filed in developing countries
- Concessional (long-term, low interest) loans with few strings attached for the Third World
- Technical assistance by developing country consultants, not by permanent staff of UN organizations, including the development of marketing capabilities
- A Third World emergency food supply program financed by food-importing countries
- Aid to increase agricultural productivity in developing countries
- First World aid at 0.7 percent of their gross domestic product

- Reduction of tariffs in developed countries
- Third World debt cancellation or rescheduling
- Buffer stocks to stabilize commodity prices – that is, stockpiles of commodities that could be bought when prices were low and sold to ease spikes in prices when supplies were low
- UN support for South–South technical assistance and other forms of cooperation, such as commodity cartels similar to OPEC
- Compensatory financing to stabilize developing country export earnings
- Indexing Third World export prices to First World exports
- A code of conduct for First World corporations operating in developing countries.

In 1975, at another special session of the General Assembly, developed countries agreed to several concrete NIEO proposals. The resulting resolution endorsed many of NIEO demands, representing a symbolic victory for the south. But the north attached reservations, and there were conflicting interpretations of the compromise. Some in the south wanted a complete restructuring of the world economy, with new institutions and new rules, but others were content with special programs and exemptions. In the end, implementation was largely left to developed countries.

In 1981, when President Ronald Reagan (1911–2004) took office, his government declared that NIEO was dead. America's experience with colonialism was primarily limited to the Philippines, so he did not share the view that past colonialism required reparations. Instead, Reagan's supporters envisioned a world economy with free trade, a concept then called **economic liberalization**, with the following components:

- Privatization, that is, the dismantling of government corporations in the Third World that had been set up during the era of import substitution
- Direct private sector loans and investment guarantees by the World Bank and related institutions to developing country corporations, thereby eliminating the middle man; that is, the former practice of making loans to governments which in turn made loans to private firms
- Deregulation: namely, phasing out governmental regulations of the economy so that market economics could operate more freely
- Export promotion, thereby replacing import substitution as the primary development strategy
- Free trade (tariff reduction) throughout the world, such that western industrial goods would enjoy access to previously protectionist developing countries, and First World corporations could increase their investment in the Third World to take advantage of the global reduction in tariffs.

However, subsidies on agricultural goods produced within developed countries were left out of the new program of economic liberalization, which focused primarily on the manufacturing sector. The intellectual architects of the new economic vision, advanced as well by the UK's prime minister, Margaret Thatcher (1925–2013), were

followers of libertarian economist Milton Friedman (1912–2006), who believed that governments were inherently inefficient promoters of economic growth.

In 1986, the General Assembly adopted the **Declaration on the Right to Development**. The resolution was only symbolic, a Third World reminder to the First World that more development aid was needed.

In 1989, the Berlin Wall fell, and the Second World soon disintegrated. Insofar as the Cold War pitted Second World advocates of the priority of economic and social rights against First World exponents of civil and political rights, the latter won. Poland and other Eastern European countries soon became democracies. Economic and social rights were then “backburnered” by developed countries at the behest of transnational corporations, which advocated a world economy driven by the law of supply and demand unfettered by governmental or international regulations. The dreams of a world of free trade, as espoused by such economic philosophers as Adam Smith (1723–1790) and David Ricardo (1772–1823), seemed closer to reality than ever before in human history. Development aid used to curry favor in the Third World during the Cold War was cut.

Even before capitalism triumphed over state socialism, market economies had been developing within China, Eastern Europe, the Soviet Union, and Vietnam. During the 1990s, democratic revolutions came along with the end of state socialism in Eastern Europe, whereas China and Vietnam adopted some economic liberalization while continuing to crack down on democratic aspirations.

HISTORIC EVENT 6.2 SOLIDAMOŚĆ'S LEADER IS ELECTED PRESIDENT OF POLAND (1990)

In 1980, a strike broke out at the shipyards in Gdansk to protest poor working conditions. Lech Wałęsa (1943–), who had been arrested in 1970 for leading a strike after 80 workers were gunned down by the government, assumed leadership of the new work stoppage. Soon, his example persuaded workers throughout the country to go on a general strike, and the government decided to compromise by allowing the strikers to form a joint committee to negotiate with the government. Solidarność (Solidarity) was then formed, and the union gained legal recognition, with Wałęsa voted to chair the new body. In 1981, however, the government refused to negotiate with the union and instead declared martial law, imprisoned Wałęsa, and attempted to crush the union. Pressure, in the form of economic sanctions and Papal disapproval, continued on the Polish government to grant workers the right to strike. While under house arrest in 1983, Wałęsa was awarded the Nobel Peace Prize. After his release from house arrest in 1987, he organized a strike in 1988 to gain formal recognition for the union. Negotiations during 1989 then led to an agreement to hold free elections in Poland. Wałęsa was elected president of Poland in 1990, and left office in 1995 when he lost reelection.

The term **globalization** was increasingly used in the 1990s to describe several developments beyond economic liberalization:

- Former non-market economies entered the world capitalist system, producing a variety of low-cost consumer goods.
- Improvements in communications, especially through the Internet, made possible instantaneous shifts of capital across national boundaries, such that a country's economy could be devastated by large-scale sell-offs of its currency.
- Jet travel with relatively low-cost fuel facilitated the rapid movement of goods and people from one corner of the world to another.
- Transnational corporations bought out businesses in a wave of consolidations and mergers, such that they became global in geographic scope while many different kinds of businesses, from manufacturing to services, were vertically integrated inside the same corporate entity.
- The new demand for unskilled labor to produce goods for international markets led to internal migration of persons from the countryside to live in shantytowns within developing countries, away from their families, and without protections against unsafe conditions of work.
- Jobs in the First World were increasingly outsourced to the Third World.
- The rights of workers declined, as businesses proposed to set up shop in countries with poor labor standards and demanded concessions from unions before doing so.

The power of global corporations began to be described as corporate imperialism insofar as profiteering businesses trampled on human rights, particularly workers rights. Ironically, the elements of globalization had been identified by Karl Marx (1818–1893) as preconditions to the end of capitalism. For Marx, the contradictions of capitalism would not become obvious until the capitalist system spread to every nook and cranny of the globe, whereupon megamergers would lead to oligopolies and later to monopolies that exerted control over workers beyond the boundaries of an increasingly irrelevant state system. When class-conscious workers realized that they could end their exploitation by collectively taking control of monopolistic businesses, according to Marx, socialism would emerge as a more attractive economic system of peace, prosperity, and human dignity.

But the collapse of the Berlin Wall ended the socialist experiment in Eastern Europe and discredited Marxism, so opponents of globalization have decried a neglect of human rights by corporations and a failure of governments to support structural changes in the world economy in order to provide more opportunities for poorer countries. Globalization's proponents, however, have pointed out that some developing countries have benefited considerably from globalization, since there has been considerable foreign investment and job creation in some of the poorest countries, thereby bringing more wealth that may be taxed and then allocated by Third World governments to education and health, provided of course that the regimes of poor countries wanted to respond to the needs of the people. In short, globalization's supporters point to increases in the attainment of economic and social rights, while opponents focus on deficiencies in regard to civil and political rights. South Korea, poster country for emergence from Third to First World status in the early 1980s, became a democracy by the end of that decade because the middle class, created by the new wealth, demanded rule by the people.

HISTORIC EVENT 6.3 THE WORLD CONFERENCE ON HUMAN RIGHTS (1993)

In 1989, communist countries collapsed in Eastern Europe, and economic assistance to the Third World waned where East and West had formerly competed to gain supporters. Developing countries, feeling abandoned, began to demand attention in terms of economic and social rights. In 1993, the Second World Conference on Human Rights convened in Vienna to resolve a growing dissensus over human rights priorities. In preparation for the conference, Asian countries met earlier in the year at Bangkok to endorse the proposition that economic and social rights should have priority over civil and political rights, and that the major human rights covenants should be rewritten to reflect the opinions of countries that were not consulted when they were written. They championed their views under the concept of "Asian values"; that is, the importance of community and family needs over Western notions of individual rights. After considerable contention at the conference, the official position adopted by the delegates was a compromise, known as the Vienna Declaration, providing in part that the two sets of rights, civil-political and economic-social, are "universal, indivisible and interdependent and interrelated." More concretely, the conference recommended the establishment of the UN High Commissioner for Human Rights, a position approved by the UN General Assembly and established later in 1993. Thus far, there has been no Third World conference on human rights, though Riyadh hosted a human rights conference in 2003 outside the UN framework.

Responding to the end of the Cold War, the World Conference of Human Rights met at Vienna in 1993. At one extreme was the **developmentalist** view, advocated by some developing countries, that economic and social rights are superior and prior to civil and political rights. At the other extreme was the **libertarian** view, advanced by some Anglo-American democracies, that economic and social rights are not rights at all and that treating them as rights serves to justify large-scale state intervention and provides an excuse for violating civil and political rights. European welfare state advocates of a middle position somewhere between developmentalism and libertarianism, sometimes known as **social market capitalism**, were not able to bridge the gap. The social safety net of social market capitalism, meanwhile, was in jeopardy within Europe, where the rising cost of welfare programs, especially for aging populations, was confronting a shrinking in government revenues due in part to mounting unemployment. Although discussion took place on a wide variety of human rights concerns, the conference achieved little but concluded diplomatically, "all human rights are universal, indivisible and interdependent and interrelated." The one concrete achievement was the recommendation for a new position in the UN structure – the UN High Commissioner for Human Rights. The UN General Assembly endorsed the idea and established the position at the end of 1993.

One year after the Vienna conference, the World Trade Organization (WTO) was formed. The pressure to consider trade in strictly economic terms resulted in pressure to reduce tariffs as well as nontariff trade barriers (NTBs). Laws adopted by governments to boycott goods produced by child labor, for example, were now subject to possible challenge as NTBs. Under WTO rules, any country with an unacceptable NTB is subject to a potential worldwide trade boycott. The specter emerged that the WTO could authorize trade sanctions against any country in order to roll back human rights advances that had taken decades to establish.

Although globalization has brought some prosperity to many poorer countries, which benefit from the resulting increase in investment, the labor force throughout the world has been subjected to three shocks:

- Developed country unemployment has increased as factories relocate to Third World countries where the cost of labor is lower.
- Third World workers, sometimes child or prison labor, are often paid extremely low wages for more than 40 hours per week under conditions where occupational safety requirements are minimal.
- When tariff-free goods from Third World factories are imported by the First World, corporations in the latter countries face such stiff competition that they have sought to keep domestic wages static and to ask their governments not to enforce fair labor or occupational safety standards.

WTO-led globalization has been viewed as condoning violations of economic and social rights on such a scale that protests have greeted meetings of various world economic summits, the most notable of which occurred at the annual WTO meeting during 1999 in Seattle. Insofar as WTO rules continue to give priority to the free flow of trade over the rights of workers, the status of economic and social rights will be in disarray throughout much of the world. Pressure to reform WTO into a more socially conscious organization has led to some innovations in recent years, as described in Chapter 10.

Nevertheless, world poverty has declined from 52 percent of the world's people in 1981 to 21 percent in 2013. At the same time, inequality within countries has increased dramatically, and workers have responded by protesting. Economists agree that economic growth is faster in countries with a more equal distribution of income. Globalization from above by giant corporations may not improve human rights, but globalization from below holds much more promise.

MICROFINANCE

The presumption of the Millennium Development Goals, as adopted by the UN General Assembly in 2000 and discussed further below, is that those in poverty need aid and wealthier countries, private humanitarian organizations, and international organizations (which wealthy countries fund) should provide that aid, with governments of aid-receiving countries as gatekeepers. Banker-economist Muhammad Yunus (1940–) had a different idea, realizing that banks were reluctant to make small loans and would charge usurious interest rates to poor people. In 1976, he

made a personal loan to 42 women to secure the wherewithal to make bamboo furniture in the village of Jobra, Bangladesh. Soon, the loan was paid back. He then decided to repeat the experiment, using money from the government bank as his starting capital. The project was so successful that he set up Grameen Bank as a Bangladesh lending facility in 1983.

Today, Grameen Bank has made loans to seven million borrowers, mostly women, for a total of about US\$7 billion, and similar microfinancing banks have been established in at least 100 developing countries. Besides the economic benefits to the borrowers, microfinancing has served to empower women politically and thus fulfills many Millennium Development Goals without any public financing required. Yunus received the Nobel Peace Prize in 2006.

DISCUSSION TOPIC 6.2 WHICH HUMAN RIGHTS PRINCIPLES SHOULD GOVERN THE WORLD ECONOMY?

Proposals for a New International Economic Order (NIEO) were extinguished by the economic liberalization of the 1980s and the economic globalization following the collapse of the Berlin Wall in 1989. The possible benefits of NIEO for the Third World, in short, were viewed as costs that developed countries refused to bear. What are the human rights costs and benefits of globalization today? Should the world economy return to NIEO?

CODES OF CONDUCT

Many corporations have **corporate codes of conduct** to regulate behavior inside a business. When companies and trade unions agree on labor standards, the result is known as a **framework agreement**. The idea that **multinational codes of conduct** might be externally imposed on corporations is a new development in international relations – but they are voluntary and do not have the force of domestic or international law and might be cited in a court case.

In 1937, the International Chamber of Commerce, a nongovernmental body, established the first multinational code of conduct – the Code of Standards of Advertising Practice. The aim of the code, which has been revised several times, is to exercise “social responsibility” by ensuring that ads are “legal, decent, honest and truthful,” thereby limiting unfair competition and respecting the cultures in which business is conducted around the world.

In 1971, when Reverend Leon Sullivan (1922–2001) joined the Board of Directors of General Motors, he became the first African American on the board of a major American corporation. Opposed to *apartheid* in South Africa, where General Motors was the largest employer of black Africans, he began to formulate principles to govern the auto company’s trade with the country that might

serve to end *apartheid*. In 1974, responding to objections to continued trade with South Africa, the British government issued a code of practice for British firms. At the urging of newly elected president, Jimmy Carter (1974-), and members of Congress, several American corporations agreed to follow the Sullivan Principles. Three months later, in 1977, the British code was superseded by the European Code of Practice, adopted by the foreign ministers of the European Economic Community to restrain trade with South Africa.

Thereafter, a step-by-step approach was taken to dismantle *apartheid*, beginning with an insistence on several fair labor practices:

- Desegregation of employment facilities
- Equal employment opportunity for all employees
- Equal pay for equal work
- A decent minimum wage and salary structure
- Increasing the number of Africans to managerial, supervisory, administrative, clerical, and technical jobs
- Measures to improve the quality of employees' lives outside work
- Fair labor practices, including allowing employees to form unions.

Later, companies were urged to break the *apartheid* law openly, challenging the government to take legal action. Meanwhile, North American and European stockholders and university students agitated to have boards of directors and regents divest their holdings of all stock in South African corporations. Then came a demand to release Nelson Mandela (1918-) from prison, followed by the requirement that black Africans must be allowed to vote. Finally, *apartheid* itself was to be abolished or businesses threatened to leave the country. Indeed, more than 100 major corporations eventually departed, so weakening South Africa's economy that the desired political change, the end of *apartheid*, occurred in 1994.

Meanwhile, consistent with the call for NIEO, the task of designing a global code of conduct was assigned by the General Assembly in 1973 to a newly created UN Center for Transnational Corporations (UNCTC). But the center failed to agree on a code of conduct during subsequent deliberations.

In 1976, the Organization for Economic Co-operation and Development (OECD) agreed upon Guidelines for Multinational Enterprises. And in 1977, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy was issued.

In its last stand, the UNCTC attempted to gain acceptance for environmental and labor codes at the 1992 Earth Summit in Rio de Janeiro. Although agreement was reached on most of the principles, UNCTC's proposal was spurned in favor of a voluntary code of conduct proposed by the World Business Council for Sustainable Development (WBCSD), an organization of prominent transnational corporations in 34 countries formed in 1991. WBCSD's Business Charter for Sustainable Development advocates a policy of free-market environmentalism, that is, the development of environmental and labor standards by corporations that will be free from governmental or international regulation while not jeopardizing profits. Today, most transnational corporations and many others are members of WBCSD.

In 1990, one year after the massacre near Tiananmen Square in Beijing, Reebok left China, objecting to martial law conditions and the presence of military personnel in its plants. In 1992, Sears, Roebuck, decided to stop importing Chinese products produced by prisoners or by other forms of involuntary labor. In 1993, Levi Strauss & Co. and Timberland ended operations and investment in China. They vowed to return only when improved conditions were guaranteed.

In 1995, pickets ringed Gap clothing stores and Starbucks coffeehouses, protesting violation of human rights standards by their suppliers; as a result, both adopted codes of conduct. Also in 1995, US immigration authorities uncovered a factory in El Monte, California, where 71 Thai nationals were locked up in an apartment complex for up to 17 years to sew clothing for name brand manufacturers and retailers during 18-hour work days. In 1996, there was an outcry when news reporters found that the name of television actress Kathie Lee Gifford (1953–) was being attached to a line of clothing made by underage workers in Central America.

The events of 1995–1996 spurred US Secretary of Labor Robert Reich (1946–) to launch a “No Sweat” campaign in 1996, bringing representatives from apparel industry corporations, environmental groups, labor unions, and human rights groups together into an Apparel Industry Partnership in order to draw up a code of conduct that would restrict imports of goods produced by children, forced labor, and workers required to labor more than 60 hours per week. The following year, the President’s Council on Economic Priorities issued the **Workplace Code of Conduct and Principles of Monitoring**, promoting the following conditions:

- A ban on the use of child and forced labor
- Prohibition of sexual harassment and worker abuse
- A safe and healthy workplace
- Recognition of freedom of association and collective bargaining as basic rights
- Required payment of the local minimum wage or the prevailing industry wage, with overtime hours paid at the legal rate
- Use of independent external monitors to oversee implementation.

President Bill Clinton (1946–) endorsed the workplace code that year. Not all companies accepted the recommendations, however. In 1997, Senator Edward Kennedy (1932–2009) unsuccessfully proposed a Congressional resolution to urge all American transnational corporations to adopt a code of conduct voluntarily, including a pledge to refrain from doing business in countries that violate human rights.

Rather than a universal code of conduct treaty applying to all businesses, activists have focused in more recent years on specific commodities and industries. In 1999, the Fair Labor Association (FLA) was incorporated to serve as a forum for garment manufacturers that subscribe to the Workplace Code of Conduct and Principles of Monitoring. The principles cover the issues of child labor, forced labor, nondiscrimination, fair labor standards regarding wages and hours of work, occupational health and safety, sexual harassment, and trade union rights. At least 250 corporations have adopted codes of conduct, according to the nongovernmental organization Clean

Clothes Campaign, which was formed in the Netherlands during 1990. Levi Strauss took the lead in implementing the code in 1991.¹

Several codes of conduct have competed for acceptance. MacBride Principles, developed in 1984 by the Irish National Caucus and eventually adopted by most corporations in Northern Ireland, were designed to address anti-Catholic employment discrimination by Protestants in Northern Ireland; they were endorsed by the US Congress in 1998. The Coalition for Environmentally Responsible Economies, a coalition of business, labor, and public interest organizations, promote environmentally sound corporate practices that are known as the *Ceres Principles*. They were developed in 1989 following the environmentally devastating spill by the *Exxon Valdez* oil tanker in Prince William Sound, Alaska. *Caux Principles* were announced in 1994 by idealistic European and Japanese corporate leaders after deliberations at a roundtable discussion group that had met at Caux, Switzerland, from 1986; they focus on the goals of human dignity and the common good. In 1999, UN Secretary-General Kofi Annan (1938–) launched the *Global Sullivan Principles for Corporate Responsibility*. In short, there is some consensus on the need for corporate codes of conduct but not on their content.

In 1999, Secretary-General Annan proposed an organization that would bypass governments to deal directly with corporations. His proposal came into being in 2000 as the UN Global Compact, which now has more than 8,000 corporations in 135 countries committed to 10 principles:

- Support human rights
- Avoid human rights abuses
- Uphold collective bargaining
- End forced or compulsory labor
- Abolish child labor
- Avoid employment discrimination
- Treat the environment cautiously
- Promote environmental responsibility
- Develop and diffuse environmentally friendly technologies
- Work against bribery, corruption, and extortion.

Principles are not codes of conduct, but the Global Compact involves the development, implementation, and disclosure of responsible corporate policies and practices.

In 2000, the American Apparel Manufacturers Association launched the Worldwide Responsible Accredited Production (WRAP) to certify facilities engaged in lawful, humane, and ethical production, with headquarters in Arlington, Virginia, and offices in Dhaka and Hong Kong. Focusing on local law and workplace regulations, international workplace standards, and the environment, certification is based on 12 criteria: WRAP prohibits child labor, discrimination, forced labor, and harassment or abuse; requires health and safety conditions, freedom of association and collective bargaining; but only assures that local regulations are followed regarding compensation, benefits, customs compliance, and environmental regulations.

WRAP is supported by 25 international trade associations that represent 36 national associations and over 150,000 individual companies, but was unprepared when more than one thousands workers in Bangladesh died due to unsafe working conditions during May 2013.

Efforts to develop a universal code of conduct have continued. In 2002, after five years of joint planning by the UN Environmental Program and the Coalition for Environmentally Responsible Economies, the Global Reporting Initiative (GRI) was launched, with a headquarters in Amsterdam. GRI accepts voluntary reports from more than 20,000 firms in 80 countries on their economic, social, and environmental practices based on 57 core indicators in its Sustainability Reporting Framework.

A proposal, *Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, was drafted by the UN Sub-Commission on the Protection and Promotion of Human Rights. But in 2003, its parent body, the Human Rights Commission, rejected the proposal when business representatives registered strong opposition.

In 2005, the Commission on Human Rights instead adopted a recommendation, **Human Rights and Transnational Corporations and Other Business Enterprises**, asking the UN Secretary-General to appoint a special representative on the subject. As a result, political scientist John Ruggie (1944–) was named Special Representative on Business and Human Rights. His efforts to develop a framework for a code of conduct based on the responsibility of corporations as well as governments to respect human rights, with a provision for remedies (“protect, respect, and remedy”), were hotly debated when presented in 2010 as the **Guiding Principles on Business and Human Rights**, but endorsed by the Human Rights Council in 2011.

In short, codes of conduct have arisen from five sources:

- Corporations have initiated their own social audits.
- Trade associations or industries have established standards. After the Bhopal tragedy, for example, the American Chemistry Council developed standards.
- Nongovernmental organizations have launched efforts to encourage humane working conditions.
- Governments have adopted fair labor standards legislation.
- Intergovernmental organizations, notably the ILO and the UN, have played important roles.

The movement for codes of conduct demonstrates an extraordinary development, sometimes called **transnationalism**. Hitherto, advocates for human rights or other issues have assumed that the venue for action was to beg nation-states for approval. Today, thanks to the Internet and ease of world travel, intergovernmental and nongovernmental entities can meet and make decisions together. The effect is to establish **global governance** in specific issue-areas. Besides the development of codes of conduct, another example of transnational decision making is to be found in the Fair Trade movement, which is discussed next.

FAIR TRADE

Codes of conduct are relevant to large corporations. The Fair Trade movement is concerned with humane conditions of work for small-scale primary agricultural producers. In 1860, the pseudonymously authored novel, *Havelaar, or the Coffee Auctions of the Dutch Trading Company*, attacked the evils of colonial exploitation of workers, in which former communal agricultural farmers were reduced to starvation levels by being dispossessed of their lands and forced to survive by working on Dutch coffee and tea plantations. Written by Eduard Douwes Dekker (1820–1887), the novel is sometimes credited with providing inspiration to anti-colonial movements around the world.

Soon after World War II, churches in Europe and North America decided to help millions of refugees and poverty-stricken communities by selling their handicrafts through such organizations as the Mennonite Central Committee. In the 1960s, alternative trade organizations (ATOs) were formed to negotiate purchases of goods from primary producers by department stores and similar companies. The first, Oxfam, began in 1965.

In 1968, the new *Whole Earth Catalog* listed handicraft items for sale so that buyers could contact vendors directly. In 1969, the first WorldShop opened in the Netherlands with actual products for sale, whereupon WorldShops spread to adjacent countries.

In 1988, when the price of coffee nosedived, the Max Havelaar Foundation began to issue labels in the Netherlands for cans of coffee that met standards of "fair trade," such as living wages for Third World workers. The idea was to enable customers and distributors to determine whether the products really benefited producers. That event spurred the fair trade movement, and several organizations emerged.

In 1989, the International Federation of Alternative Trade (IFAT) was formed as an alliance of ATOs with a headquarters in England. Currently, 70 ATOs from 30 countries are members.

In 1989, the movement went global with the formation of the International Fair Trade Association (IFAT), now called the World Fair Trade Organization (WFTO). Members include export marketing companies, importers, national and regional fair trade networks, producer cooperatives and associations, retailers, and support organizations. In 2004, the organization issued the first FTO mark to identify registered fair trade organizations.

In 1990, several ATOs in Europe joined together to form the European Fair Trade Association (EFTA). Today, 11 ATO members import products from some 400 economically disadvantaged producer groups in 9 developing countries. The organization seeks greater efficiency in importing.

In 1994, the Network of European Worldshops (NEWS!) was established to coordinate national associations representing 2,500 shops in 13 European countries. The organization provides publicity to encourage customers to purchase fair trade commodities.

Also in 1994, American and Canadian fair trade organizations joined to form the Fair Trade Federation (FTF).

In 1997, the largest fair trade organization was formed in Bonn, Germany – the Fairtrade Labeling Organizations International (FLO). In 1998, TransFair USA joined FLO, and the following year the organization began to certify fair trade coffee, some of which has been available at Starbucks from the year 2000, as well as cocoa and tea. Other fair trade products include bananas, fresh fruits and juices, herbs, honey, rice, sports balls, sugar, vanilla, and handicraft baskets made by women in Rwanda who are seeking to bring wealth to their country. In 2002, FLO issued a standard certification mark to be applied to fair trade products. In 2009, the organization split in two. Fairtrade International (FLO International), a nonprofit organization, develops standards and licenses organizations. Profit making FLO-CERT certifies and inspects producer organizations in more than 50 developing countries. Today, the FLO-CERT label is found in 50 countries from Europe to North America to Japan.

In 1998, FLO, IFAT, NEWSI, and EFTA joined together as FINE, their alphabetical acronyms, to enhance coordination.

The main criteria for certifying fair trade products are as follows:

- **Fair price** (farmer groups receive a minimum floor price, an additional premium for “organic” products, and are eligible for pre-harvest credit)
- **Fair labor** (workers have freedom of association, safe working conditions, and a living wage)
- **Direct trade** (products are purchased in bulk by fair trade ATOs, thereby eliminating the middle man)
- **Democracy and transparency** (farmers and farm workers decide democratically how to invest profits)
- **Community development** (profits are spent on upgrading the quality of products as well as on scholarships for members of the community)
- **Gender equity** (equal pay for women and female involvement in community decision making)
- **Environmental sustainability** (harmful agrochemicals and genetically modified organisms are banned; farming is managed without adverse impacts on ecosystems).

The result is that 1.5 million primary producers in 50 countries are deriving at least US\$1 billion of additional income each year. Because fair trade prices can be higher than non-fair trade products, FLO encourages producer countries to process their products before shipment, such as by roasting and packaging coffee, so that they can undersell primary products that are processed in developed countries.

The other side of the coin from fair trade is the consumer boycott, often led by nongovernmental organizations. A survey in 2000 found that about 30 percent of customers in Western countries claim to avoid purchases if they believe that the producers have harmed animals, used sweatshops, or contributed to world pollution. In contrast, the Fair Trade movement challenges economic liberals who want the market to control world trade by rewarding producers who avoid human rights violations.

MILLENNIUM DECLARATION

In the year 2000, the UN General Assembly convened a special session, known as the World Summit, in order to consider goals to be achieved in the twenty-first century. The resulting United Nations Millennium Declaration had much to say about economic, social, and cultural rights. In addition to urging developed countries to eliminate tariffs against the Third World and to cancel their official debts, the following goals and timetables were adopted relevant to economic and social rights:

- Eradicate extreme poverty and hunger
- Achieve universal primary education
- Promote gender equality and empower women
- Reduce child mortality by two-thirds
- Improve maternal health
- Combat HIV/AIDs, malaria, and other diseases
- Ensure environmental sustainability
- Develop a global partnership for development.

In addition, all developed countries are to contribute 0.7 percent of their national income in the form of aid to the Third World.

Previously, economic growth had been the goal of development aid on the assumption that as the size of the economic pie increased, there would be more to share for everyone. The Millennium Declaration abandoned that "trickle-down" approach in favor of poverty reduction. Elimination of poverty, in turn, would be achieved by following the principles of Nobel Prize-winning economist Amartya Sen (1933-), who advocates increasing the capabilities of ordinary people through improved education and health care, better care of the environment, and women's rights. As Sen puts it, "development is freedom." The assumption that poverty is a result of exploitation was rejected in favor of the observation that poverty is a result of neglect.

The principal economic innovation of the Millennium Declaration is support for the concept of **sustainable development**. Structural changes in developing country governments, including democratic accountability, are expected to enable them to make economic gains in the global economy while respecting fundamental human rights and engaging in environmentally sound practices that enable future generations to satisfy basic human needs. The goal of economic growth, then, is to give ordinary people the capability to prosper while promoting equality and nondiscrimination.

Whereas some aid has indeed been squandered over the years, with little impact on economic growth in the poorest countries, there is a consensus today that aid for health care has been extremely effective. The eradication of smallpox and considerable reduction in the incidence of guinea worms, leprosy, and river blindness has been due to carefully organized aid efforts. Since health problems are most acute among those in poverty, aid to improve health conditions has demonstrable effects on economic growth.

Each year, the UN Statistics Division charts 16 indicators to assess progress in achieving the Millennium Development Goals within nine regions of the world. In

2012, goals had been met or were expected to do so by 2015 in 40 percent of the 144 cells of the graph, whereas 9 percent of the cases were not making progress or had deteriorated. The goal of ending poverty by 2015 will not be met, but the quest continues.

PROBLEMS OF ACHIEVING ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Economic aid to developing countries is often justified as a way to encourage greater fulfillment of economic, social, and cultural rights — or perhaps to provide preconditions for increased civil and political rights. The strategies of economic development reviewed above changed because earlier efforts did not measure up. One reason is that, on the world stage, economic, social, and cultural rights have simply been neglected in comparison with civil and political rights. There are several reasons:

First of all, treaties guaranteeing economic, social, and cultural rights concede that implementation depends upon the resources of a country. According to the International Covenant on Economic, Social and Cultural Rights, “each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the **maximum** of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant ...” (my emphasis added).

Second, developing countries have the poorest attainments. Leaders of some Third World countries say that they are too poor to afford improvements in the educational and health levels of their people, though such claims are often a smokescreen for elites and dictators.

Third, leading nongovernmental organizations, such as Amnesty International, have not focused on economic, social, and cultural rights. Other organizations, such as Médecins Sans Frontières, quietly work to improve conditions, but only during crises — that is, when problems have reached mammoth proportions.

Fourth, civil and political rights are stated in absolute terms, but economic, social, and cultural rights in the various treaties are phrased in softer terms, more as goals than as duties. States are only obligated to adopt incremental programs to achieve economic and social rights and to report to the UN on what the programs are and how much progress they are making. In other words, treaties guaranteeing civil and political rights say that government should absolutely not harm people, but the treaties dealing with economic and social rights do not insist on ironclad guarantees. People have rights and governments have duties in regard to civil and political rights; in contrast, people have economic, social, and cultural rights, but treaties do not insist that governments have strong obligations to fulfill their rights.

Fifth, media can easily focus on guns pointed at protesters and similar dramas. Denials of economic, social, and cultural rights are more subtle and make headlines primarily in such circumstances as when refugee camps provide visible evidence of desperate conditions.

The sixth reason is that monitoring by the Committee on Economic, Social and Cultural Rights (CESCR), which was established by the International Covenant on

Economic, Social, and Cultural Rights, requires reports at five-year intervals and recommends action only in response to those reports. For example, in 1995 CESCR asked the Dominican Republic to provide homes to those living under bridges, on the sides of cliffs, in homes dangerously close to rivers, and to ravine dwellers. The recommendation was by way of criticism that the government's response to Hurricane David, responsible for some 2,000 deaths in 1979, was inadequate.

Boycotts of countries that deny civil and political rights often ignore the resulting adverse economic, social, and cultural consequences. When the international community adopts economic sanctions for a gross violator of civil and political rights, one consequence may be that masses are hit harder than elites. For example, sanctions in place against Iraq after the Gulf War of 1991 so deprived children of food and medicine that the UN adopted an oil-for-food program. Similarly, aid to the starving population of Somalia after 9/11 has been hobbled with restrictions in areas where a recognized terrorist group operates. In general, the more comprehensive the sanctions, the more severe are the effects on the population.

Finally, no innovative legal or concrete approaches to implementation have been developed or even proposed by countries that most strongly support economic, social, and cultural rights.

CONCLUSION

Some critics, as noted in Chapter 5, argue that economic, social, and cultural rights are fundamentally different from civil and political rights. The counterargument, that the relationship is more complex, is supported by the following observations:

The view that the cost of implementation is less for civil and political rights than for economic, social, and cultural rights lacks empirical support; nobody has yet calculated which is more expensive. Economists estimate that there is a considerable return on investment in primary education when considering such factors as reduced fertility, reduced infant mortality, lower population growth, improved family nutrition, and increased productivity.

The argument that guarantees of civil and political rights require less government action than guarantees of economic, social, and cultural rights is also wrong. Government must act to ensure fair trials and free and fair elections, just as they must manage effective educational and health care systems.

Civil and political rights are often claimed to be invariant, whereas economic, social, and cultural rights are claimed to be relative to the culture of each country. However, civil and political rights are quite variable. In Britain, officeholders can sue the press for libel, but in the United States officeholders take a lot of abuse because they are considered public figures; they must tolerate lies in the media and on the campaign trail.

Another argument is that economic, social, and cultural rights can only be extended gradually, whereas civil and political rights must be guaranteed immediately. But the right to vote was extended gradually in most Western countries, whereas the right to food requires immediate action on behalf of those who are starving.

No democracy, as Amartya Sen notes, has ever had a famine. Famines never kill the ruling class. In a country with free elections, opposing political parties, and a free press, crop failures will lead to collective action on behalf of those affected instead of stockpiling by elites while the masses starve.

Little attention has been paid above on cultural rights, which most urgently affect persecuted minorities within states. One reason is that persecution, a violation of civil and political rights, gets more attention than the byproduct, cultural suppression. Although Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination claims that the guarantee of equality before the law ensures the enjoyment of economic, social, and cultural rights, in fact many ethnic and religious groups are treated unequally on account of what mainstream groups may view as their quaint or unusual practices.

Economic, social, and cultural rights affect more persons than civil and political rights. Children, who may be too young to participate in political life, have basic needs in regard to education, health, and other elements that are at the heart of the International Covenant on Economic, Social, and Cultural Rights.

Arguments about whether civil and political rights are more important than economic, social, and cultural rights – or vice versa – can be easily deconstructed as cynical rhetoric used by governments to justify their deliberate neglect of certain basic rights.

Some observers claim that those who are poor, discriminated against, and deprived of human dignity are most likely to engage in armed insurrection against their own governments or in terrorist acts against foreign states. If so, there is a need to respect economic, social, and cultural rights in order to reduce domestic and international violence.

The following chapter, which deals with rights of individuals when systematic violence erupts, may be seen as an extension of the principles of economic, social, and cultural rights, since wars and terrorist attacks can perhaps be measured in terms of economic, social, and cultural damage (especially to children, the elderly, the infirm, and to females) even more than in terms of violations of civil and political rights. Human suffering is more likely in time of war.

DISCUSSION TOPIC 6.3 HOW CAN ECONOMIC, SOCIAL, AND CULTURAL RIGHTS BE PROMOTED MOST EFFECTIVELY?

Deprivations of economic, social, and cultural rights are often neglected in comparison with denials of civil and political rights. What has been done to increase awareness of problems relating to economic, social, and cultural rights? What kinds of actions, either by individual countries or by intergovernmental organizations, can best serve to improve economic, social, and cultural rights?